

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CIVIL CASE NO. 1:17-cv-00077-MR-DLH**

**BARBARA NEWMAN,** )  
 )  
 **Plaintiff,** )  
 )  
 **vs.** )  
 )  
 )  
 **TRIBAL CASINO GAMING** )  
 **ENTERPRISE,** )  
 )  
 **Defendant.** )  
 \_\_\_\_\_ )

**MEMORANDUM OF  
DECISION AND ORDER**

**THIS MATTER** is before the Court on the Defendant's Motion to Dismiss [Doc. 15]; the Magistrate Judge's Memorandum and Recommendation [Doc. 23] regarding the disposition of said motion; and the *pro se* Plaintiff's Response, which the Court construes as Objections to the Memorandum and Recommendation [Doc. 24].

**I. PROCEDURAL BACKGROUND**

On March 16, 2017, the Plaintiff, proceeding *pro se*, brought this action against the Defendant Tribal Casino Gaming Enterprise, asserting claims of employment discrimination in violation of the Age Discrimination in

Employment Act of 1967, 29 U.S.C. §§ 621-634 (“ADEA”). [Doc. 1]. The Plaintiff filed an Amended Complaint on April 5, 2017. [Doc. 6].

Thereafter, the Defendant filed a motion to dismiss the Amended Complaint pursuant to Rules 12(b)(1) and 12(b)(6) of the Federal Rules of Civil Procedure. [Doc. 15]. Pursuant to 28 U.S.C. § 636(b) and the Standing Orders of Designation of this Court, the Honorable Dennis L. Howell, United States Magistrate Judge, was designated to consider the Defendant’s Motion to Dismiss and to submit a recommendation for its disposition. On September 8, 2017, the Magistrate Judge issued a Memorandum and Recommendation, which recommended that the Defendant’s Motion to Dismiss be granted. [Doc. 23].

On March 31, 2014, the Plaintiff filed a pleading entitled “Plaintiff’s Response to Court’s Memorandum and Recommendation” [Doc. 24], which the Court construes as Objections to the Memorandum and Recommendation.

## **II. STANDARD OF REVIEW**

The Federal Magistrate Act requires a district court to “make a *de novo* determination of those portions of the report or specific proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). In

order “to preserve for appeal an issue in a magistrate judge’s report, a party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.” United States v. Midgette, 478 F.3d 616, 622 (4<sup>th</sup> Cir. 2007). The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections have been raised. Thomas v. Arn, 474 U.S. 140, 150 (1985). Additionally, the Court need not conduct a *de novo* review where a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” Orpiano v. Johnson, 687 F.2d 44, 47 (4<sup>th</sup> Cir. 1982).

### **III. DISCUSSION**

The Plaintiff has filed what purports to be objections to the Magistrate Judge’s Memorandum and Recommendation. The Plaintiff’s filing, however, does not identify any specific error in the Magistrate Judge’s proposed conclusions of law. Rather, the Plaintiff simply restates the allegations made in her Amended Complaint and the arguments asserted in her Response to the Defendant Motion to Dismiss. These kinds of objections do not warrant a *de novo* review of the Magistrate Judge’s reasoning. Aldrich v. Bock, 327

F.Supp.2d 743, 747 (E.D. Mich. 2004) (“A general objection, or one that merely restates the arguments previously presented is not sufficient to alert the court to alleged errors on the part of the magistrate judge. An ‘objection’ that does nothing more than state a disagreement with a magistrate’s suggested resolution, or simply summarizes what has been presented before, is not an ‘objection’ as that term is used in this context.”).

After a careful review of the Memorandum and Recommendation, the Court concludes that the Magistrate Judge’s proposed conclusions of law (particularly including the jurisdictional issues addressed therein) are correct and are consistent with current case law, including Supreme Court precedent. Accordingly, the Court hereby accepts the Magistrate Judge’s recommendation that the Defendant’s motion to dismiss should be granted on the grounds of tribal sovereign immunity.

#### **IV. CONCLUSION**

Having conducted a careful review of the Memorandum and Recommendation, the Court concludes that the Magistrate Judge’s proposed conclusions of law are supported by and are consistent with current case law.

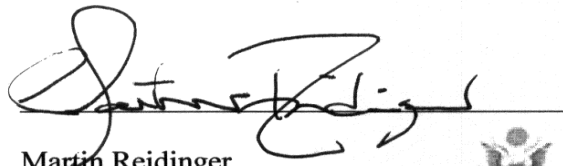
Accordingly, **IT IS, THEREFORE, ORDERED** that the Plaintiff's Objections to the Magistrate Judge's Memorandum and Recommendation [Doc. 24] are **OVERRULED**, and the recommendation of the Magistrate Judge [Doc. 23] is **ACCEPTED**.

**IT IS FURTHER ORDERED** that the Defendant's Motion to Dismiss [Doc. 15] is **GRANTED** on the grounds of tribal sovereign immunity. The Plaintiff's Amended Complaint, therefore, is **DISMISSED**.

The Clerk of Court is respectfully directed to close this case.

**IT IS SO ORDERED.**

Signed: December 29, 2017

  
Martin Reidinger  
United States District Judge

